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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,272	09/10/2003	Memphis Zhihong Yin	10012597-2	5020

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EXAMINER

LUONG, SHIAN TINH NHAN

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/660,272	YIN, MEMPHIS ZHIHONG
	Examiner Shian T. Luong	Art Unit 3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 November 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 and 26-29 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-21 and 26-29 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

Response to Amendment

1. The amendment made to the claims with respect to the hourglass shaped has not been incorporated into the specification. Applicant should make appropriate changes in the specification to correspond to the claims.

Claim Rejections - 35 USC § 112

2. Claims 5-6,9,16,17, 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant failed to apply the term "substantially" before the term "hourglass shape" in claims 5-6,9,16,17,19. The shape of the instant invention is not an exact hourglass shape as applicant noted in claim 1. Claim 9 recites the same limitation as claim 7. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 19-20 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Wadden (US 5,881,932). Wadden discloses a convertible bag that has an hourglass shaped ergonomically detailed for maximum user comfort (column 3, lines 61-66). The front and rear walls have a concave shape so that the bag 10 can more comfortably fit to a user's back or hip. Other walls or

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portions of the bag may be likewise ergonomically designed to provide a comfortable, reduced-stress configuration. The structural means such as the semi-rigid panel forms the first and second lobes. The bag has an interior compartment. The padding means is element 86.

5. Claims 26,28-29 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Dougherty (US 5,816,395) substituting for Official Notice.

Dougherty discloses a molded resilient structure 20,22,132,134 including first portion and a second portion 26,30,126,130. The first portion is any area that does not have the raise portion 26,30,126,130. The first portion having a front-to back thickness less than a front-to-back thickness of the second portion. An exterior surface material is the outermost layer surrounds the resilient structure and a padding 16,18,120,122 is between the resilient structure and the exterior surface.

With respect to claim 28, the molded resilient structure, said exterior surface material, and said padding share an opening allowing access to an interior of said molded resilient structure.

With respect to claim 29, said molded resilient structure defines an interior of said bag, said interior being suitable in size to accommodate a portable computing device.

6. Claim 27 is finally rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Dougherty. Although the bag or the case usually has a handle for transportation, it is not clearly shown by Dougherty. In the event Dougherty does not disclose the handle, it would have been obvious to provide a handle attachment for ease of transportation as notoriously known in the container art.

Claim Rejections - 35 USC § 103

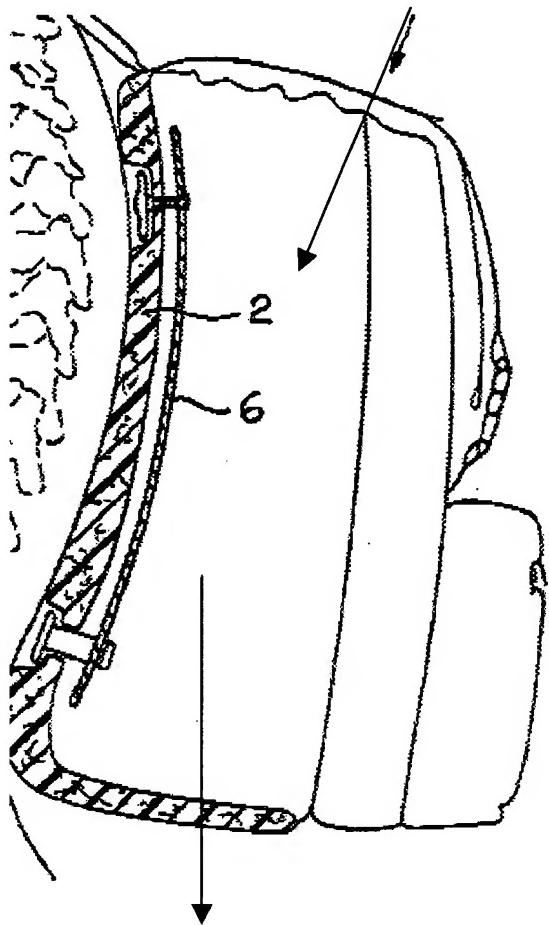
7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-21 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Rota (US 6,332,566) in view of Wadden (US 5,881,932).

With respect to claims 1,5 and 10,11, Rota discloses an interior compartment sized to hold a portable computing device therein, said portable computing device being of size on the order of at least one of a laptop or a notebook computing device. A top including a flap 4 covering an opening to said interior compartment. A bottom opposite said top; and an exterior surface coupling said top and bottom, said exterior surface presenting in cross section of said computer bag a substantially hourglass shape having a first lobe and a second lobe. Said first lobe including said top, said second lobe including said bottom, said first lobe being smaller than said second lobe. Even if applicant argued that Rota doesn't display an hourglass shaped, Wadden shows a convertible bag that has an hourglass shaped ergonomically detailed for maximum user comfort (column 3, lines 61-66). The front and rear walls have a concave shape so that the bag 10 can more comfortably fit to a user's back or hip. Other walls or portions of the bag may be likewise ergonomically designed to provide a comfortable, reduced-stress configuration. This was also the main concern in Rota, who has emphasized the need for an ergonomically bag.

First lobe



Second lobe

With respect to claim 2, wherein a distance between a widest portion of said second lobe and said top corresponds to a person's lumbar height, said lumbar height corresponding to a vertical distance between a user lumbar region and a surface upon which said user sits.

With respect to claim 3, a front-to-back dimension of said first lobe is less than a front-to-back dimension of said second lobe. This is shown in the figure above where even the thickness of element 2 is thicker on the second lobe versus the first lobe.

With respect to claim 4, the bag has two straps 12 attached to the outer surface.

With respect to claims 6,7,9, 16-17 and 19, element 2 is made out of plasticfoam material provided with a lining. The elements 2,6 are resilient and maintain the hourglass shape. In addition, Wadden discussed the manner to keep the hourglass shape of the bag 10. A semi-rigid panel and padding material 88 may be positioned between the inner and outer shells 84,86. The semi-rigid panel still has some resiliency. The resilient structure is of sufficient resiliency to maintain generally said hourglass shape when used as a lumbar support between a user lumbar region and a seat back. With respect to claim 19, the structural mean is the resilient plasticfoam or the panel 90 and the padding is the element 88 or 86.

With respect to claims 8 and 18, said resilient structure comprises a first portion and a second portion, said first portion having a front-to-back thickness less than a front-to-back thickness of said second portion. This is shown by the figure above wherein the first part has a less thickness than the second part. Also shown by Wadden, the padding 88 is between the layer 84 and the panel 90. Layer 84 and layer 86 are made out of same material. Hence, the exact positions of the layers do not appear to alter the function of the case.

With respect to claim 12, said exterior surface makes continuous transition from said first lobe to said second lobe from said top through said bottom.

With respect to claim 13, said first lobe is smaller in cross-sectional area than that of said second lobe.

With respect to claim 14, a line from said top to said bottom divides a cross-sectional area of each of said first lobe and said second lobe, said first lobe extending a first distance generally parallel to a front-to-back dimension and away from said line, said second lobe

extending a second distance generally parallel to said front-to-back dimension and away from said line, said first distance being less than said second distance.

With respect to claim 15, said line generally bi-sects said cross-sectional area of said first lobe and said second lobe.

With respect to claim 20, the interior compartment is sized to hold a portable computing device therein, said portable computing device being of size on the order of at least one of a laptop and a notebook computing device.

With respect to claim 21, the exterior surface presents in cross section a first lobe and a second lobe, said first lobe being smaller than said second lobe.

Response to Arguments

9. Applicant's arguments with respect to claims 1-21,26-29 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08. The **Group clerical receptionist number is (703) 308-1148.**

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Donna Monroe at (703) 308-2209.

For applicant's convenience, the official FAX number is (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (571) 272-4557. The examiner can normally be reached on M-H from 7:00am to 4:00pm EST.

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STL
December 23, 2004



Primary Examiner
Shian Luong
Art Unit 3728